

Legal Fatherhood

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What Mothers Should Know

What is paternity?

"Paternity" is another way of saying your child's father is the legal parent. The legal process of making a man the legal father is called "paternity establishment." Establishing paternity allows the father to have his name on your child's birth record.

Why is it important to establish paternity?

Your baby has a right to a mother **and** a father, even if you are not married. When the father's name is added to your child's birth record, your child has special rights. These rights might include:

- Child support
- Health insurance
- Tribal enrollment rights (for Native American children)
- Inheritance rights
- Social Security benefits if the father dies or becomes disabled
- Veteran's dependent benefits
- Access to the health history of the father's family (by your child's doctor). This is important, as conditions such as diabetes and sickle cell run in families.

You may believe that you do not need to establish paternity because you and the father plan to marry, the father lives with you, or the father plans to help you and your child. However, establishing legal fatherhood is needed to guarantee your child's rights.

Only when the father's name is added to the child's birth record can the child be sure of who both legal parents are.

How do I establish paternity?

There are four ways paternity can be established.

1) Voluntary Paternity Acknowledgment

If you are not married and you are sure that a man is the father, the easiest way is for you and the father to sign a *Voluntary Paternity Acknowledgment* form after your baby is born. Completing and mailing the form to Vital Records establishes full legal paternity. (The mailing address for Vital Records is on the form.) The father's name will be added to the birth certificate.

Completing this form does not create a child support order. However, it will allow a court to order child support.

If you want genetic testing, you should not sign the form until the tests are done. You may ask your local child support agency for genetic tests before you sign the *Voluntary Paternity Acknowledgment* form. See page 3 for more information about genetic tests.

You and the child's father can sign the *Voluntary Paternity Acknowledgment* form and have it notarized at the hospital when your baby is born. All hospitals in Wisconsin have the form. Your midwife might also have this form.

You can also get the *Voluntary Paternity Acknowledgment* form from your county or tribal child support agency. Your child support agency can help you with this form. You can find the telephone number for your child support agency on the web at childsupport.wisconsin.gov and in your phone book under "county government" or the tribal name.

Your local Register of Deeds office and the state Vital Records office in Madison also have the *Voluntary Paternity Acknowledgment* form.

2) Legal Agreement

You and the child's father may stipulate (legally agree) to establish paternity. The stipulation may also cover child support, custody (making decisions about your child) and visiting your child (physical placement). Your child support agency will explain how this can be done. The courts need to approve the agreement. (You may ask the child support agency to have genetic tests done before you sign this agreement. See page 3 for information about genetic tests.)

3) Court Ruling

If the man you named as the father does not agree, a court hearing will be scheduled. The court will make a ruling about paternity. The man you named will be notified to appear at the hearing. You should attend this hearing too.

At the hearing, the man's rights and responsibilities will be explained to him. If he then says he is the father, the court might order him to pay child support. If the man states he is not the father or is not sure, the court will order genetic tests. If these tests show he probably is the father, another hearing will be scheduled. Both of you will have to be at this hearing. At the hearing, the court will use the test results to rule on paternity.

4) Acknowledgment of Marital Child (Legitimation)

If you and the father get married after your child is born, you and the father can sign an *Acknowledgment of Marital Child* (Legitimation) form to establish paternity. You can get this form at your local child support agency and from the state Vital Records office. Both you and the father should sign this form in front of a notary and mail it to the state Vital Records Office in Madison. (The mailing address for Vital Records is on the form.) The *Acknowledgment of Marital Child* form gives you and your child the same rights as if you had been married before your child was born.

For help with paternity establishment, make an appointment with your local child support agency (listed on the web at childsupport.wisconsin.gov and in the phone book under “county government” or tribal name).

When can paternity be established?

Paternity can be established any time after your child is born. However, court actions to establish paternity must occur before the child’s 19th birthday. However to ensure your child's rights, it is best to establish paternity as soon as possible.

Should I still sign a *Voluntary Paternity Acknowledgment* form even if I live with the father?

Yes. Establishing paternity gives your child a legal father and gives your child important rights. (See page 1 for information about your child’s rights.) Therefore, it is important to legally establish paternity now. You might want to ask the court to give the father shared custody so he can make legal decisions for your child (such as medical decisions).

Will I need a lawyer?

The child support agency’s attorney may start a court action to establish paternity, but **cannot represent you**. You may hire a private attorney if you wish, but it is not necessary.

What if I do not know who the father is, or I am not sure?

If you are not sure who the father is, contact your local child support agency for an appointment. (For your agency’s phone number, look on the web at childsupport.wisconsin.gov or in your phone book under “county government” or tribal name.) Your child support worker will try to help you identify the father of your child. If more than one man could be the father, you will be asked to provide their names and information about each of the men so genetic tests can be done.

Genetic tests...What do they do?

Genetic (DNA) tests can be done either by a "buccal swab" test or with a blood test. Most places do the swab test. For the swab test, cotton swabs are rubbed inside the mouth to obtain cell samples. In both types of testing, samples are taken from you, your baby and the man thought to be the father. The results from these tests will determine the probability of a specific man being the father. The court uses the test results to rule on paternity if the father or mother are not sure or do not agree on the paternity of a child. In most cases, genetic tests will make it clear that a man either is, or is not, the child’s father. If the tests show a 99% or greater probability of paternity, the man will be presumed to be the father under Wisconsin law. The man has the right to object to the test results in court. **If you are not sure if a man is the father, you should ask for genetic testing.**

Who pays for these genetic tests?

The child support agency pays for the tests until paternity is established. If the tests show a man is the father, you and/or the father may be ordered to pay for all or part of the tests.

What if the baby's father is in school?

If the father is in school and cannot help you support your baby, the court might wait to set support until he graduates and is working. If the father is under 18, the court might order his parents to help with the support. Talk with your child support worker about this.

What if the baby's father does not have a job or does not make much money?

The court tries to be fair when setting child support payments so that everyone has enough money to live on. The court might order the father to look for work if he is unemployed and able to work. The court might order the father into the Children First Program to help him make enough money to pay child support. Voluntary programs may also be available to help the father get a job or a better job.

What does paternity have to do with W-2, Medicaid, TANF, Child Care and FoodShare (food stamps) programs?

If you are in the W-2, Medicaid, TANF, SSI Caretaker Supplement or the FoodShare (food stamps) programs, you need to help your child support agency establish paternity. If the father has been ordered to pay child support and you are in W-2 or TANF, the father might be able to take part in the W-2 or TANF program for Noncustodial Parents. These programs can help him make enough money to pay child support.

Important: W-2 includes the Child Care program. Medicaid includes the BadgerCare and Healthy Start programs.

What if the father threatens me or I am scared to report who the father is?

You should contact the police if anyone threatens to hurt you or your child. You may ask the police for a restraining order against a person who threatens you.

If you are in the W-2, Medicaid, TANF, SSI Caretaker Supplement or FoodShare (food stamps) programs, and you or your child are threatened, you might have “good cause” to refuse to name the father of your child. You will need to fill out some forms and provide evidence that you or your child are in danger. The W-2/Economic Support Agency will then investigate your situation. If the agency worker agrees that you or your child are in danger, you will not lose any assistance by not reporting the alleged father's name to the child support agency.

If you want to establish paternity and get support, you can be given “privacy protection.” Privacy protection will protect your address, telephone number, employer or other personal contact information.

Can the baby's father or family take the baby away from me?

Under Wisconsin law, when a child's parents are not married and legal fatherhood has not been established, sole custody is always with the mother.

After legal fatherhood is established, custody remains with the mother unless the court orders it changed. (Custody means making legal decisions for the child.) If you and the father cannot agree on custody or visitation (also called physical placement), you or the father can ask the court to set the terms.

For court orders, both parents will have to prepare a "Parenting Plan." The court would then decide what is best for your child. You can talk to your family court counseling services about custody and placement issues. Contact your family court commissioner's office for counseling services.

I am living with the father. Will establishing paternity mean I have to receive support?

Establishing your baby's paternity is separate from establishing a child support order. Establishing paternity gives your child a legal father and gives your child important legal rights. Establishing paternity does not establish a child support order. Establishing your baby's paternity now will make it easier for you if you later decide you need child support. If you would like child support, paternity must be established first.

If you establish paternity by using the *Voluntary Paternity Acknowledgment* form, you might not have to get a child support order. If you ask your child support agency to establish paternity, the agency might ask the court for a child support order.

If Medicaid paid the birth costs, the court may order the father to pay for some or all of the birth costs. According to federal law, a parent (the mother) who receives Medicaid cannot be required to repay the health care costs for herself or her children who live with her.

For more information about child support, read the *Wisconsin Child Support Program* booklet. (See page 6 for a list of booklets and brochures.)

Other Child Support Publications

The following publications are available online at childsupport.wisconsin.gov and from your local child support agency (listed in your phone book under “county government” or tribal name).

The Wisconsin Child Support Program

Child Support -- What the Paying Parent Needs to Know

Cooperation and Good Cause, Medicaid and Child Support

Cooperation and Good Cause, Child Support and W-2

Guidelines for Setting Child Support Payment Amounts

Grandparent Liability

Help Your Baby Get a Step Ahead

Legal Fatherhood: What Fathers Should Know

Medicaid, Child Support and Repaying Birth Costs

Legal Terms

Legal terms can be confusing. These definitions might help you better understand the paternity process.

Alleged father: The man named by the mother to be the child’s father or a man who believes he is the father and who brings a paternity action. (A man who believes he is the father may start a paternity action.)

Children First Program: A program where the county or tribe may provide job search assistance, job skills training, basic education or work experience opportunities to parents who pay child support. The court must order a parent into the Children First Program.

Conceptive period: The period of time when a child was likely to have been conceived. For a normal pregnancy, it is a period of 60 days -- about 240 to 300 days before the birth.

Custody: The authority given to one or both parents by the court to make major decisions regarding the child. One parent (sole custody) or both parents (joint custody) may have custody.

Guardian: A person other than the parent who is legally responsible for a child. Most children do not have a legal guardian. This only happens when a court gives legal custody to someone other than the parent(s).

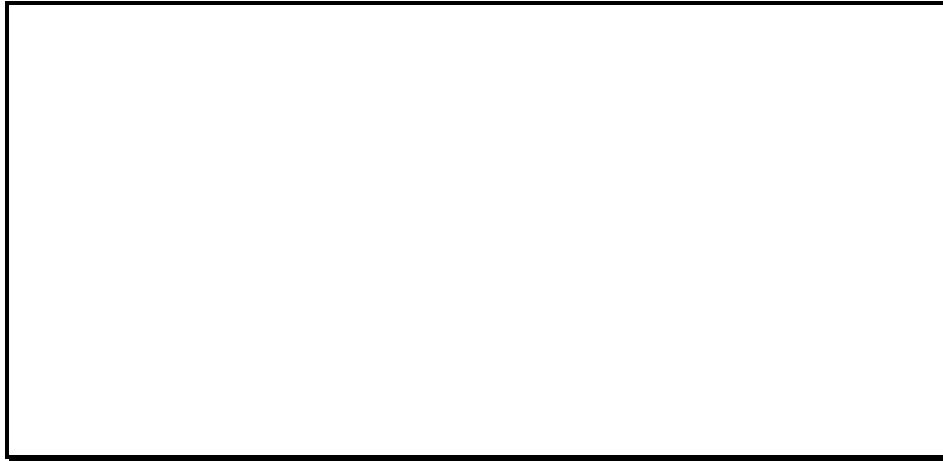
Periods of Physical Placement: (also called visitation) Periods of time a child spends with a parent.

Primary Physical Placement: Where the child lives most of the time.

Temporary Assistance for Needy Families (TANF): A federal program that provides time-limited assistance to needy families with children.

Wisconsin Works (W-2): A state work program, funded by TANF, that helps parents find a job. W-2 provides help with child care, transportation, job training and education.

Who can I call for help?



Or

Contact your county or tribal child support agency (listed on the web at childsupport.wisconsin.gov and in your phone book under “county government” or tribal name).

Child Support information is on the Internet at:

childsupport.wisconsin.gov. Most public libraries offer free Internet access.

DWD is an equal opportunity employer and service provider. If you have a disability and need to access this information in an alternate format, or need it translated to another language, please contact (608) 266-9909 or (800) 947-3529 WTRS (Toll Free).